

SUMMARY

The Main Studio Rule needs to be eliminated or replaced. In today's broadcast marketplace, the rule neither fulfills the statute it was intended to serve nor promotes any aspect of the Commission's regulatory plan. It is demonstrably inefficient and does not enhance the ties a broadcast station has with its region. In particular, the requirement that a station maintain a *studio*, as opposed to some other, less expensive type of facility, has no justification in light of current broadcasting technology and the elimination of any requirement that stations originate a set percentage of their programming.

The Commission should instead adopt a requirement no more burdensome than the "Home Office Rule." The Home Office Rule would ask a broadcast station to maintain an office within its region at which a station's management and local public inspection file would be located. Under the Home Office Rule, affiliated television stations that share the same market or have overlapping contours could also share the same central office. The Home Office Rule thus would not demand that a station maintain an unnecessary studio when more efficient means of serving the station's audience are available.

In addition, the Commission should revise and clarify its public inspection file requirements. It should discard the now senseless requirement that a broadcast station must maintain its public inspection file within its community of license unless it receives special dispensation from the Commission. It should also clarify when certain documents may be removed from the public inspection file.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Review of the Commission's Rules)	MM Docket No. 97-138
Regarding the Main Studio and)	
Local Public Inspection Files of)	
Broadcast Television and Radio Stations)	
)	
47 C.F.R. §§ 73.1125, 73.3526 and 73.3527)	
)	

To the Commission:

COMMENTS OF ALLBRITTON COMMUNICATIONS COMPANY

Allbritton Communications Company ("Allbritton"), by its attorneys and pursuant to Section 1.415 of the Commission's rules, hereby submits these Comments in response to the Commission's *Notice of Proposed Rule Making* in the above-captioned proceeding. 1/ In the *Notice*, the Commission requested comments regarding its proposed relaxation of the Main Studio Rule set forth in Section 73.1125 of the Rules and the local public inspection file requirements contained in Sections 73.3526 and 73.3527. Allbritton urges the Commission: (1) to convert the outmoded Main Studio Rule into a Home Office Rule in recognition of current

1/ *Notice of Proposed Rulemaking, In the Matter of Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations*, MM Docket No. 97-138 (May 28, 1997) ("*Notice*").

broadcast realities; and (2) to set forth clear retention requirements for a broadcast station's local public inspection files.

I. BECAUSE AN OFFICE LOCATED WITHIN A TELEVISION STATION'S SERVICE AREA BEST FURTHERS THE AIMS OF SECTION 307(B), THE "HOME OFFICE" RULE SHOULD REPLACE THE OUTDATED MAIN STUDIO REQUIREMENT.

A. The Commission should eliminate the useless Main Studio Rule.

The Main Studio Rule is an anachronism. There is no statutory or regulatory need for broadcast stations to maintain a *studio*, as opposed to other, less burdensome, facilities, at any particular location. Moreover, advancing communication technologies and the changing broadcast marketplace have obviated the need for a broadcast station to maintain a facility in any specific community within the region it serves. As the Main Studio Rule now serves no purpose sufficient to justify the burdens the rule imposes on broadcast stations, the Commission should eliminate it.

The Main Studio Rule no longer promotes any aspect of Congressional or the Commission's regulatory design. No statutory provision has ever demanded that a broadcast station maintain a main studio within its community of license or its principal community contour. Section 307(b) of the Communications Act of 1934, which the Notice describes as the basis for the Main Studio Rule, only requires the Commission to seek a "fair, efficient and equitable distribution of radio service" nationwide. ^{2/} Nor does any remaining Commission regulation imply a real need

^{2/} See Notice at ¶ 4.

for a local *studio*. Fundamentally, a studio differs from other types of less costly broadcast facilities because a studio may be used to develop programming. More than a decade ago, however, the Commission wisely eliminated the requirement that stations originate a set percentage of their programming. ^{3/} Without this local program origination requirement, the perpetuation of a studio requirement makes no sense. ^{4/}

The Main Studio Rule also has little remaining practical purpose. A “main studio” is no longer needed for community residents to have access to a station’s management or public file, “to monitor a station’s public interest performance,” or to encourage “a continuing dialogue between the station and the community.” ^{5/} Ten years ago, the Commission recognized that “community residents often communicate with stations by telephone or mail rather than visiting the studio.” ^{6/} During the past ten years, advancing technology, such as electronic

^{3/} See Notice at n.9; 1987 Report & Order at 3218-19.

^{4/} Similarly, even if the justifications for the Main Studio Rule suggested in the Notice -- that the rule ensures access to the station’s management and public files -- are valid, these purposes hardly demand the presence of a fully operational studio. Should the Commission require some form of local program material insertion, standard technology permits doing so directly at the transmitter site without a need for a studio.

^{5/} *Id.*; see also Memorandum Opinion and Order, Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television and Television Broadcast Stations, 3 FCC Rcd 5024 (Aug. 17, 1988) at ¶ 24.

^{6/} Notice at ¶ 5 (citing Report and Order, Amendment of Main Studio and Program Origination Rules for Radio and Television and Radio Broadcast Stations, 2 FCC Rcd 3215, 3218-19 (1987) (“1987 Report and Order”).

mail and increasingly accessible facsimile machines, has made it even easier for a broadcast station to maintain a dialogue with the many communities it serves without requiring individual members of those communities to travel to some station-operated facility. The Commission itself has gone to some lengths to encourage broadcasters to file documents with the Commission electronically, so that the public might easily access them via the internet. ^{7/} These same reports duplicate those maintained in the station's public inspection file.

In fact, the Main Studio Rule hampers the provision of efficient, fair and equitable radio service mandated by the statutory provision that the rule was supposed to effectuate. The existing Main Studio Rule imposes substantial unnecessary costs on broadcast stations. Under the current rule, for example, an entity that operates two stations in the same DMA but with different communities of license (or non-overlapping principal community contours) typically must maintain two separate main studios, complete with separate managerial and staff personnel. ^{8/} The entity also must purchase and maintain two separate sets of program origination and production equipment at each of the individual studios, as well as pay rent and utilities for each studio, even if significant savings could be

^{7/} See, e.g., Notice at ¶ 31; *Review of Policies and Rules Concerning Children's Television Programming*, 11 FCC Rcd 10660, 10695 (1996).

^{8/} See generally *Memorandum Opinion and Order, For Renewal of License of Station WHYI-TV, Wilmington, Delaware*, 93 FCC2d 1086 (1983) (outlining requirements for main studio).

obtained by sharing the stations' facilities. 9/ The needless costs imposed by the Main Studio Rule on co-owned stations in the same region contradict Section 307(b)'s explicit goal of efficient broadcast service.

Allbritton's experiences in northern Alabama demonstrate the inefficiencies inherent in the current rule. Allbritton programs two Alabama television stations. One, WJSU-TV, Channel 40, Anniston, Alabama, serves Anniston as well as portions of Birmingham's metropolitan area. The other, WCFT-TV, Channel 33, Tuscaloosa, Alabama, serves Tuscaloosa, as well as additional segments of Birmingham's DMA. Programming is simulcast on these two stations from a studio/office complex in Birmingham. The two "main studios" are used as local news bureaus and sales hubs while the Birmingham studio/office complex serves as the primary business location and production center. However, the public inspection file requirement (Section 73.3526(d)), when read in conjunction with the Main Studio Rule, demands current public records in both "main studios." As a matter of practical administration, a "master public file" is also maintained at the central office/studio complex. Consequently, redundant public files (all in triplicate) must be coordinated on a daily basis at each of the three studio locations. The daily burden of maintaining these redundant files underscores the inefficiencies of the Main Studio Rule. 10/

9/ As noted, a broadcast station does not need to maintain an extensively equipped local studio to provide information of local import to its audience. Critical local information may be added to television broadcasts through means far more efficient than through the continual maintenance of a local studio.

10/ See also Notice at ¶ 7 (noting that main studios are frequently superfluous).

Similarly, Allbritton programs and has a pending application to acquire WJXX, Channel 25, Orange Park, Florida, which serves northeastern Florida. Allbritton also programs WBSG-TV, Channel 21, Brunswick, Georgia, which serves parts of northeastern Florida, as well as much of southeastern Georgia. The two stations will simulcast ABC programming to the Jacksonville, Florida market from a new central office/studio complex in Jacksonville. Under the Main Studio Rule, however, the two stations, though serving the same market area and reporting on the same communities, have to maintain their individual “main studios,” one in Orange Park and one in Brunswick. Moreover, because the main studio for each of these stations is not located in the technical city of license of either station, the public inspection files for the two stations must be located in still *another* two locations. This is particularly burdensome during political campaigns when public inspection files must be absolutely current with information on time sales to candidates. A new rule would eliminate the senseless need for these *five separate* Allbritton locations in the same television market.

B. The Commission should adopt a “Home Office Rule” to replace the outmoded main studio requirement.

The primary public interest rationale for the Main Studio Rule is to have access to management and access to public records. Allbritton urges the Commission to adopt a new rule that would direct television stations to maintain a regional “home office” that must remain accessible to the public during normal business hours. This home office need not include any studio or production

equipment, but must have station personnel on hand to respond to questions or take suggestions from individuals who visit the office. In addition, the home office should maintain a copy of the required local public inspection files of the station.

Of course, each station's home office should be accessible to the communities that the broadcast station serves. For licensees with only one television station in a region, the rule should require that the home office be located anywhere within the station's designated market area or within the area covered by the station's Grade B contour. For licensees who own or operate multiple television stations with overlapping contours in a region, the Home Office Rule should simply require that the stations maintain at least one qualified office at a site within the designated market area or the Grade B contour of any of the stations.

The potential for such a new rule to fulfill Section 307(b)'s goals of fair, efficient and equitable radio service is apparent. First and foremost, the rule would eliminate the regulatory redundancy of requiring stations operated by the same or affiliated entities to maintain separate main studios and public files in multiple communities in the region. The Home Office Rule would permit the stations, which would necessarily serve the same vicinity, to consolidate their facilities and share with their audiences the benefits of that consolidation.

Second, the rule provides flexibility to a television station without ignoring the need for that station to remain connected to the region it serves. Broadening the areas in which a broadcast station may locate its home office hardly reduces the presence of that station in its community. In today's television

broadcast market, stations must be prepared to serve and respond to communities throughout their coverage or designated market areas. A station naturally responds to communities throughout its Grade B contour because that contour defines the station's potential off-air viewership. Similarly, a station must remain attuned to viewers throughout its designated market area because a station's ratings, on which its advertising revenue depends, are based on its audience within its entire market. Whether a television broadcast station's home office is located within one or another community in that market, however, is hardly likely to affect the station's commitment to the region, as the mere presence of a studio in a community is not the tie that compels a station to address news of interest to that community. Instead, a television station focuses on its entire local region because it values its audience throughout the region as well as being identified with the area it serves.

Both a station's designated market area and the area within its Grade B contour thus sensibly bound the sites where a station's home office should be located. A station should be able to select the office site within the region it serves that it believes would best serve that region. In addition, co-owned stations within the same market area or that have overlapping contours should not be denied the opportunity to obtain significant efficiencies by collocating their home offices within one of the communities that either station serves. Because the Main Studio Rule ignores the reality that today's broadcast stations serve their entire region, the rule

unnecessarily impedes marketplace efficiencies such as common personnel and equipment sharing that would be possible under the Home Office Rule.

C. The Commission should also eliminate the requirement that a station's public file must be located in the station's city of license.

At a bare minimum, the Commission should discard Section 73.3526(d), which requires that the public inspection file be located in the city of license. There is no logical argument to keep public inspection files within a station's community of license when, even under the Main Studio Rule, a station's main facility can be located anywhere within the station's principal community contour. By nonetheless requiring the public file to be maintained in a station's community of license, the rule has caused these important files to be kept in libraries and attorney offices, which has in turn resulted in much confusion and error, as many of these locations are not equipped with personnel who are familiar with the Commission's public file requirements. The rule is especially burdensome during political campaigns, when the files require near-constant revision. Because the rule's costs far outweigh any marginal enhancement of the files' accessibility, Section 73.3526(d) should be rescinded.

D. Replacement of the main studio requirement with the Home Office Rule and elimination of Section 73.3526(d) will both reduce the regulatory burden on broadcast stations and better achieve the goals of Section 307(b).

Ten years ago, the Commission relaxed the Main Studio Rule because “developments in technology, the marketplace and [its] regulations” had eliminated the purpose of certain aspects of the rule. ^{11/} The Commission has since reaffirmed its commitment to the “longstanding Congressional and Commission policy in favor of reducing regulatory burdens consistent with the public interest.” ^{12/} In light of these established principles, the Commission should now replace the main studio requirement with the proposed Home Office Rule. This clear and uniform rule would end the redundancies suffered by television stations that may share a designated market area and the same owner or operator (or have overlapping Grade B contours and the same owner or operator), but cannot share the same main office. It would thus efficiently replace the Main Studio Rule, which no longer promises benefits sufficient to justify the expensive inefficiencies that the requirement currently compels. For similarly compelling reasons, the Commission should strike Section 73.3526(d) as inconsistent with today’s regulatory and market conditions.

^{11/} See *1987 Report and Order* at ¶ 46.

^{12/} See *Notice* at ¶ 8.

II. THE COMMISSION SHOULD CLEARLY SET FORTH THE RETENTION PERIODS FOR DOCUMENTS TO BE KEPT IN A BROADCAST STATION'S PUBLIC INSPECTION FILES.

Allbritton applauds the Commission's proposals to update the list of materials that must be kept in a broadcast station's local public inspection files. As part of this effort, Allbritton requests that the Commission publish a complete list of all the materials that should be in these files, as well as the retention periods for each of those documents. In particular, the Commission should clarify whether items that must be kept for the term of the broadcast station's license, such as a licensee's issues/programs list, may be removed when the license is renewed, regardless of when a specific item was placed in the file. Currently, it is unclear whether an item that was placed in the file midway through a license's eight-year term may be removed as soon as the license has expired or instead must remain until eight years after the item was initially placed in the file, even though the license, in the meantime, has been renewed.

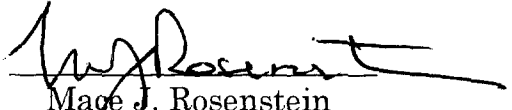
Allbritton otherwise supports the Commission's and other commenters' attempts to reduce recordkeeping burdens on broadcast licensees. It endorses the Commission's proposal to eliminate any requirement that the current licensee must reconstruct missing or incomplete public file information relating to previous owners of the station, as information that is related to prior ownership, such as old ownership reports, programming and EEO practices, is largely irrelevant to the station's current operations and is costly, and sometimes impossible, to collect.

III. CONCLUSION

For the foregoing reasons, Allbritton favors replacement of the main studio requirement with a Home Office Rule and clarification of the requirements for a broadcast station's public files.

Respectfully submitted,

ALLBRITTON COMMUNICATIONS
COMPANY

By: 
Mace J. Rosenstein
F. William LeBeau

Of Counsel:

Jerald N. Fritz
Vice President, Legal and Strategic Affairs
ALLBRITTON COMMUNICATIONS
COMPANY
808 17th St., N.W.
Washington, DC 20006
(202) 728-4383

HOGAN & HARTSON, L.L.P.
555 13th Street, N.W.
Washington, DC 20004
(202) 637-5600

Its Attorneys

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